

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number: 09/992,582
Filing Date: November 16, 2001
Applicant(s): Stephen M. Hitchen
Entitled: COLLABORATIVE FILE ACCESS MANAGEMENT SYSTEM
Examiner: Luke S. Wassum
Group Art Unit: 2177
Attorney Docket No.: 1152-2U

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants request that a Panel Review of the rejection in the Final Office Action dated April 4, 2006, be performed in the above identified application.

CLAIMS 1 THROUGH 20 HAVE BEEN REJECTED UNDER 35 U.S.C. § 103(A) AS BEING UNPATENTABLE OVER U.S. PATENT NO. 5,724,578 TO MORINAGA ET AL. (MORINAGA) IN VIEW OF U.S. PATENT APPLICATION PUBLICATION NO. 2002/0035697 TO McCURDY ET AL. (McCURDY) AND FURTHER IN VIEW OF U.S. PATENT APPLICATION PUBLICATION NO. 2002/0178271 TO GRAHAM ET AL. (GRAHAM).

Graham fails to provide any teaching directed to the interception and suppression or quashing of a file system request as required by the plain language of claims 1, 9, 12 and 13. Claims 1, 9 and 13 specify a "suppressing" of a file request, while claim 12 specifies a "quashing" of a file request. The Examiner refers to paragraphs 140 and 141 of Graham in

support of the argument that Graham provides the requisite teaching of "suppressing" or "quashing". A review of the entirety of the language of paragraphs 140 and 141 of Graham, however, reveal only that a filter-driver can "intercept and modify" a request. Never, however, does Graham teach the complete suppression or quashing of a request.

In fact, the very admission in Graham that a request is merely modified implies necessarily that the request is not suppressed, but relayed on to the file system. Thus, it is not appropriate for Graham to have been combined with Morinaga and McCurdy for an exact opposite teaching that would defeat the operation of the Applicants' invention. Of course, there cannot be a requisite motivation to combine evident within Graham to combine Graham with Morinaga and McCurdy due to the inability for Graham to actually suppress or quash an inbound file system request. As such, the Examiner (as it will be apparent from the stated motivation to combine in the Final Office Action of April 4, 2006) has not located a relevant motivation to combine Graham with Morinaga and McCurdy and merely has provided some irrelevant hindsight based reasoning.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-3839, and please credit any excess fees to such deposit account.

Date: July 5, 2006

Respectfully submitted,


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